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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/764,492 | 01/27/2004 | Scott C. Casebolt | 221P128US01 | 6255 |

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Minneapolis, MN 55418

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| EXAMINER |
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CHIN SHUE, ALVIN C

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| ART UNIT | PAPER NUMBER |
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3634

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,492

Applicant(s)

CASEBOLT ET AL.

Examiner

Alvin C. Chin-Shue

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) 20-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,8,11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Wingerd. Baker shows the claimed device with the exception of the securing member. Wingerd shows a securing member at 16',18 for anchoring a lower portion of a ladder. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Baker with a securing member, as taught by Wingerd, for anchoring a lower portion of his ladder.

Claims 4,14,16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker and Wingerd as applied to claim 1 above, and further in view of Skyba '623 . Skyba shows the use of a ratchet strap as a securing member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Baker with a ratchet strap, as taught by Skyba, at the lower portion of his ladder, in lieu of the securing member as taught by Wingerd, to facilitate tightening of his ladder against the support.

Claims 5, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker and Wingerd as applied to claim 1 above, and further in view of Parker. Parker shows a self-retracting lifeline. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Baker with a self-retracting lifeline, as taught by Parker, for his lifeline d, to enhance the safety of a user.

Claims 1-3, 6-13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swankie in view of Norton and either Tomioka et al. or Keigher. Swankie shows the claimed device with the exception of the securing member and lifeline. Norton shows a securing member at 30 for anchoring a lower portion of a ladder. Both Tomioka at A and Keigher at 82 show lifelines. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Swankie with a securing member, as taught by Norton, for anchoring a lower portion of his ladder, and a lifeline, as taught by either Tomioka or Keigher, as a safety means for a user.

Claims 4, 14, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swankie, Norton and either Tomioka or Keigher, as applied to claim 1 above, and further in view of Skyba. Skyba shows the use of a ratchet strap as a securing member. It would have been obvious to one of ordinary skill in the

art at the time the invention was made to provide Swankie with a ratchet strap, as taught by Skyba, at the lower portion of his ladder, in lieu of the securing member as taught by Norton, to facilitate tightening of his ladder against the support.

Claims 5,15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swankie, Norton and either Tomioka or Keigher, as applied to claim 1 above, and further in view of Parker. Parker shows a self-retracting lifeline. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Swankie with a self-retracting lifeline, as taught by Parker, for the lifeline as taught by either Tomioka or Keigher, to enhance the safety of a user.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-19, drawn to a safety device, classified in class 182, subclass 3.
- II. Claims 20-2, drawn to a method of securing a safety device, classified in class 182, subclass 82.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the method as claimed can be used by a product without a lifeline.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with attorney Sannes on 3.22.05 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 20-24 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

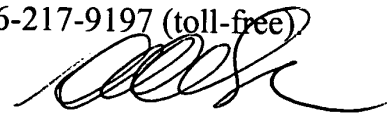
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be

accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue
Examiner
Art Unit 3634